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Administration OF JUSTICE Memorandum

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1990 Legislation Affecting Criminal Law and Procedure

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This memorandum summarizes acts of the 1990 session of the General Assembly affecting criminal law and procedure. Each new law is referred to by the session laws chapter number of the ratified act and by the number of the original bill that became law—for example, Chapter 1039 (H 2375). The effective date of each new law is also given. If the act specified the codification of a new section of the General Statutes, the section number stated in the act is used (with the abbreviation G.S.), though the reader should be aware that the codifier of statutes may change that number.

The statutory changes are not reproduced here. You may obtain a free copy of any bill by writing the Printed Bills Office, State Legislative Building, 16 West Jones Street, Raleigh, NC 27601, or by calling that office at 919-733-5648. Your request should be by bill number rather than by chapter number.

Some of the material in this memorandum is excerpted from chapters by Institute of Government faculty members in a forthcoming publication, *North Carolina Legislation 1990*, which may be ordered from the Institute of Government's Publication Office at 919-966-4119.

Drug Law Changes

Drug-trafficking grand jury law extended. The 1986 law authorizing the use of a drug-trafficking grand jury was to expire October 1, 1991. Chapter 1039 (H 2375) extends the law's expiration date to October 1, 1993.

Possessing an immediate precursor chemical to make an illegal drug made a crime. Chapter 1039 (H 2375), effective for offenses committed on or after October 1, 1990, amends G.S. 90-95 to prohibit a person from possessing an immediate precursor chemical [generally, a substance used to make a controlled substance; see the definition in G.S. 90-88(14)] with the intent to manufacture a controlled substance or from possessing or distributing an immediate precursor chemical while knowing or having reasonable grounds to believe that the chemical will be used to manufacture a controlled substance. A violation of this new law is a Class H felony punishable by a maximum imprisonment of ten years. The designation of a chemical as an immediate precursor chemical will be the responsibility of the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services. Chapter 1039 designates twenty-nine chemicals as immediate precursor chemicals until otherwise specified by the commission.

Hiring a minor to commit a drug violation made a more severe felony. Chapter 1081 (H 267), effective for offenses committed on or after October 1, 1990, adds new G.S. 90-95.4 to punish more severely the hiring of a minor to commit certain drug violations. If a person who is at least eighteen years old but less than twenty-one years old hires a person under eighteen years old to violate G.S. 90-95(a)(1) (which prohibits manufacturing, selling, or delivering a controlled substance or possessing such a sub-

stance with the intent to do so), the offense is punishable as a felony that is one class more severe than the violation the minor was hired to commit. For example, a twenty year old who hires a twelve year old to sell cocaine will be punished as a Class G felon (maximum imprisonment of fifteen years) rather than as a Class H felon (maximum imprisonment of ten years). If the person who hires the youngster under eighteen years old is twenty-one years old or older, the offense is punishable as a felony that is two classes more severe. Thus a twenty-one year old who hires a twelve year old to sell cocaine will be punished as a Class F felon (maximum imprisonment of twenty years). Chapter 1081 provides that a defendant's mistaken belief about the age of the person hired (if, for example, the defendant mistakenly believed that the person hired was nineteen instead of the person's actual age, seventeen) is not a defense to the prosecution of an offense.

A criminal pleading must allege—and the state must prove at trial—the ages of the defendant and the person hired if the more severe punishments described above are to be imposed.

Chapter 1081, effective for violations committed on or after October 1, 1990, adds a new statute that provides that a person twenty-one years old or older who hires or employs a person under eighteen years old to commit a violation of G.S. 90-95 (which contains most drug offenses) is civilly liable for damages for drug addiction proximately caused by the violation. It also provides that defenses of contributory negligence and assumption of risk are not available to defend against liability.

Selling drugs to a pregnant female made a Class E felony. G.S. 90-95(e)(5) provides that a person who is eighteen years old or older who violates G.S. 90-95(a)(1) by selling or delivering a controlled substance to a person under sixteen years old is guilty of a Class E felony (maximum imprisonment of thirty years). Chapter 1039 (H 2375), effective for offenses committed on or after October 1, 1990, adds to this subdivision the sale or delivery of a controlled substance by a person eighteen years old or older to a pregnant female of any age. It also provides that neither mistake of age nor the defendant's ignorance of the female's pregnancy are defenses to the prosecution of these offenses.

A criminal pleading must allege—and the state must prove at trial—the ages of the defendant and the person to whom the controlled substance was sold or delivered or that a female to whom a controlled substance was sold or delivered was pregnant, whichever is the case, if the more severe punishments described above are to be imposed.

Selling drugs on or within 300 feet of school property made a Class E felony. Chapter 1081 (H 267), effective for offenses committed on or after October 1, 1990, amends G.S. 90-95(e) to provide that a person twenty-one years old or older who sells, delivers, or manufactures a controlled substance or possesses such a substance with the intent to do so on property used for an elementary or secondary school, or within 300 feet of the boundary of such property, is guilty of a Class E felony (maximum imprisonment of thirty years). This new offense does not apply to the transfer of less than five grams of marijuana for no money. Chapter 1081 requires that a person convicted of this offense serve a minimum of two years' imprisonment without the possibility of early release.

A criminal pleading must allege—and the state must prove at trial—that the criminal act occurred on school property or within 300 feet of its boundary if the more severe punishment described above is to be imposed.

Drug tax law changed. In 1989 the General Assembly enacted legislation that levied an excise tax on illegal drugs possessed by drug dealers. Chapter 1039 (H 2375), effective July 27, 1990, provides that of the money collected by this tax and any applicable penalties and interest, 75 percent must be remitted to the state or local law enforcement agency that conducted the investigation leading to the assessment. If more than one agency conducted the investigation, the secretary of the Department of Revenue will determine an equitable share for each agency based on proportionate contributions to the investigation.

Chapter 814 (S 1361), effective June 25, 1990, rewrites the criminal drug tax offense set out in G.S. 105-113.110: A dealer commits a Class I felony (maximum imprisonment of three years) when the dealer possesses marijuana or any other controlled substance or counterfeit controlled substance on which the tax due has not been paid, as evidenced by a tax stamp. Chapter 814 also amends G.S. 114-18.1(a) to make clear that a law enforcement agency must report to the State Bureau of Investigation an arrest of a drug violator only when the violator possesses a drug in an amount subject to the drug tax law.

Restitution for drug lab work authorized. Chapter 1039 (H 2375), effective July 27, 1990, amends G.S. 90-95.3 to authorize a judge to order a defendant convicted of a drug offense under Article 5 of Chapter 90 of the General Statutes to pay restitution of $100. The money will go to the state to be deposited in the General Fund for the expenses of analyzing a controlled substance possessed by the defendant or the defendant's agent. To consider the constitutionality of this provision, see Shore v.

Edmisten, 290 N.C. 628 (1976) (court rules that restitution to a state or local government agency is permissible when the offense results in particular damage or loss to it over its normal operating costs, but restitution is not permissible to reimburse a government for its overhead attributable to normal costs of prosecution).

Additions made to controlled substances schedules. Chapter 1040 (S 524), effective July 27, 1990, adds various substances to the list of controlled substances in schedules I, II, and V. To save space, the substances (many of which have lengthy names) will not be listed here.

New and Amended Crimes

New offense of third-degree sexual exploitation of minor created. Chapter 1022 (S 817) creates a new offense of third-degree sexual exploitation of a minor, punishable as a Class J felony (maximum imprisonment of three years). A person commits this offense if he or she possesses material (knowing its character or content) that contains a visual representation of a minor engaging in sexual activity. Like the current statutory offenses of first- and second-degree sexual exploitation of a minor, this new statutory offense does the following: (1) It incorporates the definitions in G.S. 14-190.13 of *material* (pictures, video recordings, films, and the like), *minor* (person under eighteen years of age who is not married or judicially emancipated), and *sexual activity* (except it excludes excretory functions from the definition). (2) It provides that mistake of age (that is, mistake as to the minor's age) is not a defense. (3) It provides that the jury may infer that a participant in sexual activity, who is represented in the material as a minor, is a minor. The participant can be represented through the material's title or text, visual representations, or otherwise. Chapter 1022 was ratified on July 27, 1990, and purports to be effective for offenses committed on or after October 1, "1989." However, it constitutionally may be applied only to offenses committed on or after July 27, 1990.

Insurance fraud laws in Chapter 14 repealed and essentially reenacted in Chapter 58. Chapter 1054 (S 498), effective for offenses committed on or after October 1, 1990, repeals several insurance fraud statutes in General Statutes Chapter 14 and essentially reenacts them—with some modifications—in General Statutes Chapter 58. A savings clause permits continued prosecution of offenses under the repealed statutes for offenses committed before October 1, 1990.

G.S. 14-96 (embezzlement by insurance agents and brokers) is repealed and its provisions essentially reenacted in new G.S. 58-2-162, except that a violation of the statute is a Class H felony (maximum imprisonment of ten years) regardless of the amount of money embezzled. G.S. 14-96.1 (report to commissioner) is repealed and essentially reenacted as G.S. 58-2-163. G.S. 14-213 (false oath to statement of insurance company) is repealed and essentially reenacted in G.S. 58-2-180. G.S. 14-214 (false statement to procure benefit of insurance policy or certificate) is repealed and essentially reenacted as G.S. 58-2-161, except it broadens the kinds of insurance contracts subject to criminal liability for false statements to procure benefits. The definition of *insurer* in G.S. 58-1-5(3) will include all insurance contracts under articles 1 through 64 of Chapter 58. New G.S. 58-2-161 also specifically includes insurance contracts under articles 65 through 67 (which include HMOs) of Chapter 58 and the state employees' health insurance plan under Chapter 135 of the General Statutes. G.S. 14-215 (false oath to statement required of fraternal benefit societies) is repealed and essentially reenacted as G.S. 58-24-180(e). G.S. 14-216 (false oath to certificate of mutual fire insurance company) is repealed and essentially reenacted in G.S. 58-8-1.

Protection against dangerous dogs provided. Chapter 1023 (S 994) provides that an owner of a "dangerous" dog commits a misdemeanor punishable by a maximum imprisonment of thirty days and a $100 fine if the owner (1) leaves that dog unattended on the owner's real property unless the dog is confined indoors in a securely enclosed and locked pen or in another structure designed to restrain the dog or (2) permits that dog to go beyond the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled. Chapter 1023 also provides that the owner of a "dangerous" dog commits a misdemeanor punishable by a maximum imprisonment of two years and a $5,000 fine if that dog attacks a person and causes physical injury requiring medical treatment exceeding $100. A dog is *dangerous* if it (1) has killed or inflicted severe injury on a person without provocation; (2) has been determined by a local government animal control board or designated person to be *potentially dangerous* (as set out in the statute); or (3) is owned or harbored primarily or in part for dog fighting, or is trained for dog fighting. The act exempts from its provisions certain kinds of dogs, including those used for law enforcement purposes and lawful hunting. Chapter 1023 is effective for offenses committed on or after October 1, 1990.

Chapter 1023 also provides that the owner of a dangerous dog is strictly liable in civil damages for injuries or property damage that the dog inflicts on a person, property, or another animal.

Beach bingo law changed. Bingo is a highly regulated activity that may be lawfully conducted only by licensed organizations for charitable, nonprofit causes. However, *beach bingo*, which is a bingo game offering a prize worth $10.00 or less, is exempt from most regulations. Chapter 826 (H 1030), effective for offenses committed on or after July 3, 1990, provides that a person violating the beach bingo game limit by offering a prize worth more than $10.00 but less than $50.00 commits a misdemeanor punishable by a maximum imprisonment of two years. Offering a prize worth more than $50.00 is a Class H felony punishable by a maximum imprisonment of ten years.

Chapter 826 also provides that a beach bingo game may not offer free bingo games as a promotion, for prizes, or otherwise.

Pollution criminal penalties increased. Chapter 1045 (H 1177), effective for offenses committed on or after January 1, 1991, amends G.S. 143-215.6B [as recodified from G.S. 143-215.6(b)], G.S. 143-215.114B [as recodified from G.S. 143-215.114(b)], and G.S. 143-215.88B [as recodified from G.S. 143-215.91(b)] and adds new G.S. 130A-26.1 (criminal violation of Article 9 of Chapter 130A) to establish various felony offenses for violations of water quality, air quality, oil and hazardous substances control, and hazardous waste management programs that are knowingly and willfully committed or that involve knowing endangerment.

Criminal Procedure, Sentencing, and Other Changes

Guilty plea allowed before clerk or magistrate only for a certain littering offense. Chapter 1041 (S 951), effective July 27, 1990, amends G.S. 7A-180 and G.S. 7A-273(9) to permit a clerk or magistrate to accept a guilty plea to littering only if the criminal pleading charges a violation of subsection (c) of G.S. 14-399, which is littering in an amount of not more than 15 pounds or 27 cubic feet and not for commercial purposes.

Civil and criminal court costs increased by $1.00. Chapter 1004 (H 950) increases by one dollar the cost of service of criminal or civil process, effective for criminal or civil process served on or after October 1, 1990. Therefore, for example, total district court criminal costs will increase from $50.00 to $51.00.

Definition of neglected juvenile modified. Chapter 815 (H 250), effective July 1, 1990, amends G.S. 7A-517(21) to provide that in determining whether a juvenile is neglected, it is relevant whether that juvenile lives in a home where another juvenile has died as a result of abuse or neglect, or lives in a home where another juvenile has been subjected to sexual or severe physical abuse by an adult who regularly lives in the home.

Crime victims compensation changed. Chapter 898 (H 2403), effective July 12, 1990, and applicable to criminally injurious conduct occurring on or after two years before that date, amends G.S. 15B-11(a)(2) to expand the time limit for which a crime victim who is ten years old or younger may apply for compensation for economic loss. The youngster's application must be filed within two years from the date of the criminally injurious conduct; for all others, the time limitation remains one year. This legislation was designed especially to assist child abuse victims.

Chapter 1066 (S 1426), effective July 1, 1990, amends G.S. 15B-11(a)(4) to permit compensation awards to various relatives of the offender or the offender's accomplice. As a result, this statutory provision will now only bar an award (except when the interests of justice require otherwise) to the offender or the offender's accomplice.

IMPACT program as special condition of probation authorized. Chapter 1010 (S 1499), effective January 1, 1991, amends G.S. 15A-1343(b1) to authorize a judge to require as a special condition of probation that the probationer participate in the IMPACT program (a "boot camp" program involving military-style discipline) "for a minimum of 90 days or a maximum of 120 days under special probation, reference G.S. 15A-1351(a) or G.S. 15A-1344(e)." This apparently means that the probationer may be ordered to participate in the IMPACT program for 90 to 120 days as a part of special probation. To be eligible for the program, a defendant (1) must be between sixteen and twenty-five years old, (2) must be convicted of an offense punishable by imprisonment of one year or more, (3) must submit to a medical evaluation to determine fitness for the program, and (4) must not have previously served an active sentence of more than 120 days.

Intensive probation program expanded to parole and misdemeanants. Chapter 994 (H 2288), effective July 19, 1990, amends G.S. 143B-262(c) to (1) make clear that the Department of Correction may have an intensive supervision program for parole as well as probation, (2) repeal the requirement that at least 80 percent of each intensive probation team's case load be felons, and (3) provide that the intensive probation and parole program be available to both felons and misdemeanants.

Misdemeanant parole with house arrest condition authorized. G.S. 15A-1372(d) authorizes the Parole Commission to parole and terminate supervision of any prisoner who is serving a sentence for a

misdemeanor other than an impaired driving offense. Chapter 1031 (S 1506), effective July 27, 1990, amends this statute to authorize the commission also to parole such a prisoner with house arrest as a condition of parole.

Probation and parole supervision fee increased. Chapter 1034 (H 2173), effective October 1, 1990, and applicable to all persons placed on supervised probation or parole before or on or after that date, amends G.S. 15A-1343(c1) and G.S. 15A-1374(c) to increase from $15.00 to $20.00 the monthly supervision fee that a judge or the Parole Commission must impose unless the probationer or parolee is exempted for good cause. Chapter 1034 also amends G.S. 15A-1374(c) to specify that a parolee must pay the fee to the clerk of superior court of the county in which the parolee was convicted.

Prison cap raised. Chapter 933 (H 2245) raises in two stages the prison *cap* set out in G.S. 148-4.1. (The cap operates as follows: When the prison population reaches a level of 98 percent of the cap for fifteen consecutive days, the Parole Commission must parole enough inmates to reduce the population below 97 percent of the cap.) Chapter 933 raises the cap from 18,715 to 19,324, effective November 1, 1990, and then to 20,435 on June 30, 1991. The secretary of the Department of Correction may advance or delay these effective dates by a maximum of forty-five days depending on the availability of prison space.

Sentencing commission created. Chapter 1076 (H 2284), effective July 28, 1990, and expiring on July 1, 1992, creates the North Carolina Sentencing and Policy Advisory Commission, composed of twenty-three members. The commission's functions are to "evaluate sentencing laws and policies in relationship to both the stated purposes of the criminal justice and corrections systems and the availability of sentencing options," and to make recommendations to the General Assembly "for the modification of sentencing laws and policies, and for the addition, deletion, or expansion of sentencing options as necessary to achieve policy goals." The commission's primary tasks are to (1) classify all criminal offenses into various felony and misdemeanor categories based on their severity, and assign a suggested range of punishment to each category; (2) develop *sentencing structures* (i.e., guidelines in choosing a sentence); and (3) formulate policy recommendations. It must make a progress report to the 1991 legislative session and must report its recommendations concerning classification of offenses and sentencing structures before the 1992 legislative session.

Additional information for court-appointed attorney's fee applications required. Chapter 946 (S 1587) amends G.S. 7A-455(d) to provide that in all cases in which the entry of a judgment is authorized under G.S. 7A-450.1 through -450.4 or under G.S. 7A-455, the attorney, guardian ad litem, or public or appellate defender who rendered the services or incurred the expenses for which the judgment is to be entered must obtain the social security number of the person against whom judgment is to be entered. The number (or a certificate that the person has no social security number) must be included with the fee application. If this is not done, payment from the Indigent Persons' Attorney Fee Fund is not authorized, even if a judge has ordered payment. Each judgment docketed must include the social security number, if any, of the judgment debtor. Chapter 946 applies to all applications submitted and orders entered on or after October 1, 1990. One purpose of this legislation is to facilitate the interception under General Statutes Chapter 105A (the Setoff Debt Collection Act) of future state income tax refunds due the judgment debtor. A related change to G.S. 7A-455(c) prohibits the docketing of these civil judgments until a defendant has completed probation or probation has been revoked or terminated. The amount of any judgment entered then would be the balance of the obligation and must reflect any payments made during probation to offset the debt.

Law enforcement officer oath of office established. Chapter 953 (S 1013), effective October 1, 1990, amends G.S. 11-11 to establish an oath of office specifically for law enforcement officers (to be taken in addition to the oath required under the Constitution of North Carolina).

Motor Vehicle Law Changes

Impaired driving after three impaired-driving convictions within seven years made a Class J felony. Chapter 1039 (H 2375), effective for offenses committed on or after October 1, 1990, creates the Class J felony offense of habitual impaired driving, which is committed when a person drives while impaired and has been convicted of three or more impaired-driving offenses [as defined in G.S. 20-4.01(24a), which includes out-of-state convictions] within seven years of the date the person drives while impaired. The maximum imprisonment for this offense is three years and the minimum imprisonment is one year, which may not be suspended. The sentence must begin at the expiration of any sentence being served. Chapter 1039 also provides that a conviction of habitual impaired driving requires the permanent revocation of the person's driver's license.

A criminal pleading must allege—and the state must prove at trial, subject to the provisions of G.S.

15A-928—the three impaired-driving convictions that occurred within seven years of the date of the impaired-driving offense being tried. A sample of charging language for a magistrate's order, arrest warrant, or criminal summons (for an indictment or information, discussed below) charging habitual impaired driving is as follows:

> . . . unlawfully, willfully and feloniously did drive a vehicle on a highway or public vehicular area while subject to an impairing substance and, within seven years of the date of this offense, has been convicted of three or more offenses involving impaired driving. The defendant has been previously convicted on (1) June 12, 1990, of impaired driving in Durham County District Court; (2) April 6, 1987, of felony death by vehicle in Guilford County Superior Court; and (3) January 10, 1985, of impaired driving in Forsyth County District Court.

Note, however, that G.S. 15A-928(b) requires that an indictment or information for this kind of offense allege the prior convictions in either (1) a separate count of the indictment or information charging the substantive offense or (2) in a separate indictment or information. Thus the second sentence in the sample charging language must appear in a separate count or indictment. Under G.S. 15A-928(c), the defendant is arraigned during the superior court trial before the close of the state's case in the absence of the jury. If the defendant admits the prior convictions, this element is established and proof of the convictions and jury instructions about this element are not permitted (this provision does not bar evidence of a prior conviction under other rules of evidence, such as impeaching a defendant under Rule 609). If the defendant denies the prior convictions or a particular conviction, then the state has the burden of proving the conviction(s) before the jury.

Note that it is not a violation of the ex post facto provisions of federal or state constitutions to use as prior convictions impaired-driving convictions that occurred before this new law's effective date, October 1, 1990. [See State v. Cobb, 18 N.C. App. 221 (1973), *reversed on other grounds*, 284 N.C. 573 (1974) (an analogous ruling under the Felony Firearms Act).]

It appears that the provisions of G.S. 20-138.4 apply to this new offense. Thus a prosecutor who enters a voluntary dismissal, accepts a plea to a lesser offense, substitutes another charge, etc., must enter detailed facts in the record explaining that action.

New options for house arrest allowed for impaired drivers. Chapter 1031 (S 1506), effective for convictions of impaired driving occurring on or after October 1, 1990, amends G.S. 20-179(g) and -179(h) to allow new options for sentencing defendants subject to Level One or Level Two punishments for impaired-driving convictions. An offender in Level One, rather than being required to serve at least fourteen days' imprisonment as a condition of special probation, may be ordered to serve at least four consecutive days and then be placed under house arrest for twice the unserved portion of the fourteen-day period. An offender in Level Two, rather than being required to serve at least seven days' imprisonment as a condition of special probation, may be ordered to serve at least two consecutive days and then be placed under house arrest for twice the unserved portion of the seven-day period.

Headlights required to be on when wipers are on. Chapter 822 (H 416) amends G.S. 20-129(a) to require lighted head lamps and rear lamps whenever the vehicle's windshield wipers are being used because of smoke, fog, rain, sleet, or snow, or when inclement weather or environmental factors severely reduce the ability to discern clearly people and vehicles at a distance of 500 feet. However, this provision does not apply if windshield wipers are being used only intermittently in misting rain, sleet, or snow. A violation will result in a warning ticket only from October 1, 1990, through December 31, 1991. Thereafter the offense is an infraction with a $5.00 penalty but no court costs. (The act expires June 30, 1991; thus a violation will not be punishable as an infraction unless the General Assembly extends the act.) No driver's license points or insurance points may be assessed for a violation.

Properly working speedometer required in motor vehicles. Chapter 822 (H 416), effective for infractions committed on or after October 1, 1990, adds new G.S. 20-123.2 to require that a self-propelled motor vehicle must be equipped with a speedometer in good working order. A violation is an infraction punishable by a penalty of not more than $25.00 plus court costs; no driver's license points or insurance points may be assessed.

Handicapped parking penalty increased. Chapter 1052 (H 2391), effective for infractions committed on or after October 1, 1990, amends G.S. 20-37.6(f)(1) and (f)(2) to increase the penalty for (1) parking in a handicapped parking space without displaying the required license plate, placard, or identification card; (2) the unauthorized use of a handicapped parking plate, placard, or identification card; (3) parking a vehicle so as to obstruct a ramp or curb

cut for handicapped persons; and (4) failing to erect appropriate handicapped parking signs for designated parking spaces. The penalty will be not less than $50.00 but not more than $100.00.

Red lights and sirens authorized for emergency medical support vehicles. Chapter 1020 (S 300), effective July 27, 1990, amends G.S. 20-125(b) and G.S. 20-130.1(b) to allow an emergency medical service emergency support vehicle to have a red light and siren.

Subleasing of motor vehicles regulated. Chapter 1011 (S 1618), effective for offenses committed on or after October 1, 1990, adds new G.S. 20-106.2 to regulate the subleasing of motor vehicles and to provide criminal penalties for violations of the statute.

Study of defensive driving-citation dismissal program created, with moratorium on new programs. Chapter 1065 (H 2349), effective July 28, 1990, creates a study of programs established in some prosecutorial districts in which a minor traffic citation is dismissed when a defendant completes a defensive driving course. The study is to review the legality, desirability, and feasibility of establishing programs statewide and to report to the General Assembly by March 1, 1991. Chapter 1065 states the General Assembly's intent that no new program be established in any judicial district until the study is completed.

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